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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/759,958	01/12/2001	Jia-Ni Chu	W9298-03	4265

7590

07/14/2003

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EXAMINER

CAIN, EDWARD J

ART UNIT

PAPER NUMBER

1714

DATE MAILED: 07/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/759,958

Applicant(s)

Chv et al

Examiner

Edward Con

Group Art Unit

1714

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☐ Responsive to communication(s) filed on _____.
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1, 2, 4, 6-12, 14-16, 18, 20-26 and 28-35 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1, 2, 4, 6-12, 14-16, 18, 20-26 and 28-35 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____.
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

*Certified copies not received: _____.

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, 4, 6-12, 14-16, 18, 20-26, 28, 29 and 30-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sakai or Gusr or Kolaite.

The Examiner's position remains as stated in the June 6, 2002 Office action.

Applicants argue that the Examiner has not pointed to teachings in these references to suggest that they are capable of adsorbing water. This argument is not persuasive.

Applicants disclose zeolites and silica gel in the specification. These references disclose zeolite or silica gel. It is the Examiner's position that the composition of these references inherently possess any limitation in the claim concerning adsorbing water.

This is a prima facie case of obviousness. If it is applicants' position that the composition of these references are not capable of adsorbing water, then the burden is on applicants to submit persuasive evidence in affidavit or declaration form to support their position. No such affidavit or declaration has been submitted. Therefore there is no basis for applicants to obviate this prima facie case of obviousness. The argument that not all silica gels are adsorbents has been considered but is not persuasive. This is an unsupported argument made by attorney. Applicants have not submitted any evidence to support this argument. This argument is not supported by the specification. Page 4 of the specification recites silica gels. Page 4 of the specification does not state that there are silica gels which adsorb water and silica gels which do not adsorb water.

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The presumption from page 4 of the specification is that all silica gels adsorb water. Even if this argument were persuasive, Sakai and Kolaitis specifically recite zeolite. All zeolites adsorb water. Applicants have not rebutted the prima facie case directed to the obviousness of compositions according to Sakai or Kolaitis comprising thermoplastic material, wax, and zeolite.

Applicants have further argued that the composition of the references would not be thermoplastic or flowable at 124 c. Applicants need demonstrate these by factual data in affidavit form.

3. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward Cain whose telephone number is 703-308-0042. The examiner can normally be reached on Monday-Friday from 10:00 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on 703-306-2777. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9097 for regular communications and 703-872-9310 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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E. Cain/mn
June 30, 2003

A handwritten signature in black ink, appearing to be 'E. Cain', written in a cursive style.